

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

MATTHEW D. KOHUS,	:	
Plaintiff,	:	
v.	:	Case No. 3:12-CV-294
JASMINE K. CORNELIUS,	:	JUDGE WALTER H. RICE
Defendant.	:	

DECISION AND ENTRY ADOPTING UNITED STATES MAGISTRATE
JUDGE'S REPORT & RECOMMENDATION (DOC. #19); SUSTAINING
DEFENDANT'S UNOPPOSED MOTION TO DISMISS COUNT ONE OF
THE COMPLAINT (DOC. #12)

Plaintiff, Matthew D. Kohus, filed suit against Jasmine K. Cornelius, alleging:
(1) assault and battery; (2) negligent infliction of emotional distress; (3) negligence;
and (4) negligence per se. Plaintiff also sought declaratory judgment. All claims
arise out of a September 6, 2010, altercation that occurred after Plaintiff, an Ohio
State Highway Patrolman, stopped Defendant for a traffic violation.

Defendant has filed a Motion to Dismiss Count One of the Complaint, the
assault and battery claim, pursuant to Federal Rule of Civil Procedure 12(b)(6), for
failure to state a claim upon which relief can be granted. Doc. #12. Defendant
notes that, under Ohio law, claims for assault and battery must be brought within
one year after the date the alleged assault and battery occurred. Ohio Revised
Code § 2305.111(B)(1). Here, the alleged assault and battery occurred on

September 6, 2010, but the Complaint was not filed until September 6, 2012.

Plaintiff has conceded that the claim is time-barred and should be dismissed. Doc. #18.

On May 16, 2013, the United States Magistrate Judge issued a Report and Recommendation, recommending that Defendant's motion be granted and that Count One be dismissed with prejudice. Doc. #19. No objections have been filed. The Court therefore ADOPTS the Report and Recommendation, Doc. #19, SUSTAINS Defendant's Motion to Dismiss Count One of the Complaint, Doc. #12, and DISMISSES that claim WITH PREJUDICE.

Date: July 11, 2013



WALTER H. RICE
UNITED STATES DISTRICT JUDGE